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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/663,638  | 09/16/2003  | Peter L. Bakos       | 03023256            | 1908             |
| 26565   | 7590        | 12/01/2006           | EXAMINER            |                  |
| MAYER, BROWN, ROWE & MAW LLP<br>P.O. BOX 2828<br>CHICAGO, IL 60690-2828 |             |                      | LEWIS, BEN          |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |

1745

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/663,638

Applicant(s)

BAKOS ET AL.

Examiner

Ben Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **Detailed Action**

1. The Applicant's amendment filed on September 11th, 2006 was received.

Claims 1 and 8 were amended. Claims 16-18 withdrawn.

2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action (issued on March 9<sup>th</sup>, 2006).

### **Claim Rejections - 35 USC § 103**

3. Claims 1 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratte et al. (U.S. Patent No. 6,902,095 B2) and further in view of Williamson et al. (U.S. Patent No. 5,553,764).

With respect to claims 1, 20 and 22, Ratte et al discloses a method of cold forming a two-part battery terminal and a two-part cold formed battery terminal comprising a cold formed lead or lead alloy slug having a male fastener protruding from one side of the cold formed slug with a head portion of the fastener rotationally retained and embedded in the battery terminal by cold formed lead or lead alloy around the end face of the fastener (Col 1 lines 45-51) (See Fig. 5). Ratte et al does not specifically teach a bolt wherein the sealing portion is tapered. However, Williamson teach a transverse hydraulic coupling with lipped port wherein Collar 430 has external tapered

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surfaces **431** and **432** which sealingly engage body **405** and port **401'**, respectively.

External tapered surface **431** extends into body **405** to engage internal tapered surface **406**. Also, external tapered surface **432** extends into port **401'** to engage internal tapered surface **413** (Col 9 lines 64-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the tapered portion of Williamson et al into the bolt of Ratte et al because Williamson et al teach that external tapered surfaces provide a seal (Col 9 lines 64-67).

With respect to claims 1 and 8, claims 1 and 8 are product by process claims. The insert molding of the bolt, does not further limit the product of claim 1. MPEP 2113 states, "Even though product-by-process claims are limited by and defined by the process, determination of patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F. 2d 698,227 USPQ 964,966 (Fed Cir. 1985).

With respect to claims 19 and 21, Ratte et al discloses a method of cold forming a two-part battery terminal and a two-part cold formed battery terminal comprising a cold formed lead or lead alloy slug (subassembly) having a male fastener protruding

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from one side of the cold formed slug with a head portion of the fastener rotationally retained and embedded in the battery terminal by cold formed lead or lead alloy around the end face of the fastener (Col 1 lines 45-51) (See Fig. 5).

4. Claims 2-6 and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratte et al. (U.S. Patent No. 6,902,095 B2) and Williamson et al. (U.S. Patent No. 5,553,764) as applied to claim 1 above and further in view of Whitney (U.S. Patent No. 2,353,531).

Whitney teaches an integral washer 11 as seen in figure 1 which includes projection 12, and also wherein the washer is regarded as having semi-circular projections below the head flats as seen in figure 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a washer with the bolt head of Ratte et al. as modified by Williamson et al, in view of the teaching of Whitney, the motivation being to strengthen the bolt head of Ratte et al. as modified by Williamson et al. To form the head height to washer thickness of Ratte et al. as modified by Williamson et al and Whitney to be 1 .24 would have been obvious to one of ordinary skill in the art, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

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5. Claims 1, 7, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratte et al. (U.S. Patent No. 6,902,095 B2) and Williamson et al. (U.S. Patent No. 5,553,764) and further in view of Landgrebe (U.S. Patent No. 5,704,749).

Ratte et al. as modified by Williamson et al has been discussed above. Landgrebe teaches a bolt **15** with a non-threaded portion **19** above the threaded portion **21**, as well as a sealing, tapered portion **17** which bottoms against a planar surface **35** of a recessed portion **33** of an internally threaded body (B) (Col 3 lines 50-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tapered **432** abutment of Ratte et al. as modified by Williamson et al such that the tapered portion **432** abuts a planar surface of a recessed portion of the nut **303**, in view of the teaching of Landgrebe, the motivation being to prevent over-torquing of the bolt **409** (See Figs 12 and 16).

### ***Response to Arguments***

6. Applicant's arguments filed on September 11th, 2006 have been fully considered but they are not persuasive.

*Applicant's principal arguments are*

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*(a) Applicants respectfully submit that none of the prior art cited by the Examiner discloses, teaches or suggests the present invention. Neither independent claim 1 nor 8, as amended, is obvious based upon any of the cited art. Claims 1 and 8 were amended to specify that the bolt is insert molded into the battery cell subassembly.*

In response to Applicant's arguments, please consider the following comments.

(a) With respect to claim 8, claim 8 is a product by process claim. The insert molding of the bolt, does not further limit the product of claim 1. MPEP 2113 states, "Even though product-by-process claims are limited by and defined by the process, determination of patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F. 2d 698,227 USPQ 964,966 (Fed Cir. 1985).

### **Conclusion**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ben Lewis whose telephone number is 571-272-6481. The examiner can normally be reached on 8:30am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Susy Tsang-Foster can be reached on 571-272-1293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ben Lewis

Patent Examiner  
Art Unit 1745

  
PATRICK JOSEPH RYAN  
SUPERVISORY PATENT EXAMINER